

Appl. No. 09/450,023  
Amdt. Dated September 19, 2005

### REMARKS

Applicant respectfully requests that the Examiner and Supervising Examiner promptly reconsider the rejections set forth in the last Office Action dated July 15, 2005. Applicant earnestly requests a Notice of Allowance for this application based on the numerous substantial deficiencies identified herein with respect to the most recent rejections. Regardless of whether the Examiners are willing to reconsider their rejections, Applicant request prompt reconsideration and action on this matter.

In support of this urgent request, Applicant notes that the above-referenced application has been pending for more than six years now. The same art which is now before the Examiner as a basis for rejecting the claims, specifically Walker U.S. Patent No. 5,794,207 ("Walker") has been in front of the Examiner for more than three years. Indeed, four of the five references to Walker in the latest Office Action (viz., Col. 8, lines 42-56, Col. 10, lines 31+, Col. 13, lines 11-29, Col. 16, lines 12-45) were all previously cited by the Examiner in two earlier Office Actions dated April 24, 2002 and February 10, 2003 and later withdrawn.

Thus, following the Office Action dated April 24, 2002, Applicant filed two claim amendments (Amendment A and Supplement Amendment). The Examiner then recognized that Walker alone was deficient, but repeated these same rejections as being obvious in light of the combined teachings Walker, as informed by Gustafson U.S. Patent No. 5,659,731 ("Gustafson"). Following the filing of an appeal brief, the Examiner again withdrew these rejections in favor of other rejections, which have now also been withdrawn in favor these

Appl. No. 09/450,023  
Amdt. Dated September 19, 2005

new rejections. The handling of prosecution for this application has been extremely inconsistent and resulted in tremendous unnecessary delay. Accordingly, Applicant requests urgent action on this matter and favorable reconsideration.

In regard to the double patenting rejection set forth by the Examiner in paragraphs 2 and 3 of the office action, Applicant submits that a terminal disclaimer will be provided upon receiving indication of allowable subject matter. Applicant respectfully submits that submission of a terminal disclaimer would be premature at the present time because neither this application nor the co-pending Application No. 09/449,942 has yet received an indication of allowable subject matter.

Applicant respectfully requests reconsideration of the prior art rejection set forth by the Examiner under 35 U.S.C. sections 102 and 103 in light of United States patent number 5,794,207 issued to Walker. Applicant respectfully submits that the teachings of Walker alone or in combination with any other reference of record fails to either teach or suggest Applicant's presently claimed invention. A detailed analysis demonstrates the numerous substantial deficiencies in the teachings of this reference relied upon by the Examiner in rejecting the claims.

Applicant has previously modified the only claim to highlight the differences between Applicant's claimed invention and the prior art relating to the selective transmission of a solicitation to only a select and qualified group from an overall pool of vendors based on an automated comparison of multiple vendor capabilities with corresponding multiple job specifications, for example. To further highlight these differences, Applicant has again

Appl. No. 09/450,023  
Amdt. Dated September 19, 2005

modified the only claim in the instant submission as Amendment F. Applicant respectfully submits that the prior art references of record provide no teaching or suggestion whatsoever regarding this advance in the art.

In the most recent office action, the Examiner maintained the prior rejections based on the four previously withdrawn Walker references cited above, while adding a fifth reference to Walker, Col. 18, lines 15-33 to again assert that Walker teaches the specified limitations.

As to the first reference (Col. 10, lines 31+), which relates to the Applicant's invention being "[a] method for *bidding* by vendors of customized goods or services" (emphasis added), Applicant notes that Walker, Col. 10, lines 31+ merely gives a general description of the Walker invention, using a "clothesline" analogy on which buyers hang their acceptable prices for sellers to see, thereby enabling "buyers to reach a large number of remotely located sellers who normally would not be able to afford to find the buyer" (Col. 10, lines 40-43). The Applicant's invention, however, is aimed at soliciting competitive pricing from a controlled number of qualified and pre-approved vendors, not offering pricing to a large number of remote or even anonymous sellers. Indeed, in a strict sense, the Walker patent is not even a method for *bidding*, but rather a method for closing a sale *without any bidding at all*. The reference to Walker, Col. 10, lines 31+ is therefore inapposite.

Next, the Examiner has asserted that Applicant's recited steps of receiving a plurality of vendor records and receiving a job data from a buyer are satisfied by the seller database and CPO database (citing Column 13, lines 11-29 and Column 8, lines 42-56). However, Applicant's limitation with respect to the receipt of vendor records requires that the specified

Appl. No. 09/450,023  
Amdt. Dated September 19, 2005

vendor records identify a plurality of capabilities for each of the plurality of vendors. Significantly, Applicant notes, that neither this portion of the Walker reference nor any other portion of this reference details receipt of vendor records each of which identify multiple capabilities for each vendor.

The cited portion of the specification describes the seller database and the CPO database. In regard to the seller database, the specification notes that the database maintains data on sellers with fields such as name, contact information, payment preferences, type of business, and the goods sold. (Lines 11-15 of column 13). None of the referenced fields indicate that data regarding a plurality of capabilities for each vendor should be maintained for subsequent comparison. CPO database similarly fails to provide any teaching or suggestion whatsoever regarding the receipt of a plurality of vendor records including vendor capability data identifying a plurality of capabilities for said vendor as required by the claim. This claim specifically requires that the vendor records include vendor capability data identifying a plurality of capabilities for the vendor. Nothing in the referenced portion of the cited document or any other portion could reasonably be considered to be data identifying a plurality of capabilities for each vendor. The cited reference similarly fails to teach or suggest receiving job data from a buyer which specifies a plurality of characteristics of a customized good or service.

The only portion which could remotely be considered to be capability data at all is the portion in column 13 at lines 18-23 which states that "[u]pon registration, the seller may be required to demonstrate evidence of ability to deliver on bound CPOs." Significantly, this

Appl. No. 09/450,023  
Amdt. Dated September 19, 2005

portion of the document does not indicate that a plurality of capabilities for each vendor should be maintained for subsequent comparison. This portion of the cited reference actually teaches away from the presently claimed invention as it indicates that confirmation concerning any capability is made at the time of registration. This is contrary to Applicant's claimed comparison. In light of the foregoing, at least for this reason alone, the Examiner's rejections are deficient and should be withdrawn.

With regard to the fourth and fifth Walker references (Column 16, lines 12-45 and Column 18, lines 15-33), there is no step of automatically comparing via a computer processor the vendor records and specifically the vendor capability data to the job data wherein the comparison includes comparing each of the plurality of characteristics for the customize good or service with corresponding plural capabilities for each vendor.

In regard to the recited step in the claim of receiving job data having buyer identifier data and a job descriptor data which specifies a plurality of characteristics of said customize good or service, the Examiner has identified the conditions set forth in the CPO. Significantly, however, in regard to the additional recited steps in the claim of automatically comparing via a computer processor said vendor records to said job data and automatically identifying via a computer processor at least one subset from the pool of vendors as qualifying, there is no indication that a comparison should be made between the vendor capability data and each of the conditions on the CPO prior to transmission of the CPO. This is yet another independent reason as to why the prior art does not anticipate or render obvious the claimed subject matter. Insofar as the Examiner asserts that Column 18, lines 15-33 of Walker

Appl. No. 09/450,023  
Amdt. Dated September 19, 2005

teaches the specified limitation by having the central controller post the conditional purchase offers to only the most appropriate sellers from the seller database, Applicant notes that his portion of the Walker reference is directed to selective display of a conditional purchase offer to only the most appropriate sellers. However, what is determined to be the most appropriate sellers does not depend upon a comparison of vendor capabilities and job requirements as set forth in the claims of the instant application.

It should be apparent that the prior art is substantially different than the presently claimed invention which requires an automatic comparison of the vendor capabilities with job requirements, for example. In accordance with Applicant's claimed invention, this occurs prior to the selective transmission of the solicitation to only qualified vendors. This is a substantial advantage over the prior art in that vendors are not required to seek out web pages or other potential locations for solicitations or conditional purchase offers and most importantly they are not required to view offers for which they are not qualified to bid upon.

Significantly, in contrast with the prior art, in accordance with the present invention, the solicitation is transmitted to only those vendors who are qualified to receive the solicitation based on a comparison of capabilities and job requirements. In the cited prior art, vendors are required to look at solicitations for which they are not qualified because it is the vendors who are required to perform the screening function. More specifically, the vendors must look at all postings on the presented web pages or other classifications of purchase offers. The same holds true of the alternate embodiment described in the specification.

Appl. No. 09/450,023  
Amdt. Dated September 19, 2005

wherein potential sellers or vendors could elect to receive either all conditional purchase offers or only those conditional purchase offers in their specific subject area.

Again this is significantly different than the presently claimed invention and is substantially less efficient than the subject matter of the claimed invention because the prior art does not teach or suggest automatic comparison of capabilities followed by selective transmission to only those who are qualified to receive the solicitations. In the prior art cited by the Examiner, vendors are still required to screen offers for which they are not qualified. The cited portion of the Walker reference merely teaches that categories of purchase offers may be provided and vendors may be able to select those categories of purchase offers. Applicants claimed invention is substantially more efficient than the prior art.

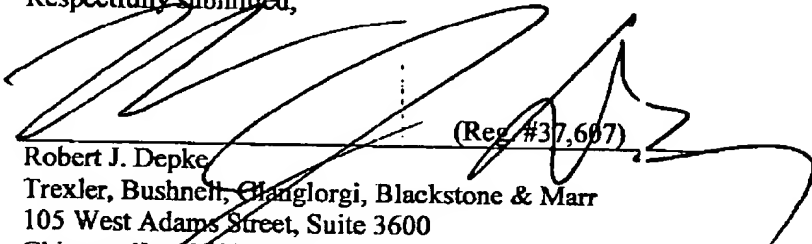
Appl. No. 09/450,023  
Amdt. Dated September 19, 2005

Applicant respectfully submits that the claim remains in condition for allowance. In light of the foregoing, Applicant respectfully requests allowance of the application.

The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-1794.

Respectfully submitted,

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